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Supreme Court, U.S.
FILED

No. _____

08-287 JUN 24 2008

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In The

Supreme Court of the United States

MIKE BELLO,

Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

MIKE BELLO, Pro se
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Fort Worth, TX 76109
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QUESTIONS PRESENTED

On August 25, 2006, the District judge for the United States District Court for the Northern District of Texas, Honorable Terry R. Means issued two simultaneous orders.

The first order titled Order Regarding the Commencement of New Miscellaneous Action cause no. 4:06-MC-024-Y, stating that it was based on the on going case of *Tonie Williams v. Washington Mutual Bank, F.A.*, 4:04-cv-246-Y (Doc. 1) in this disciplinary proceeding.

The second order issued on August 25, 2006, was titled, Order to Appear and Show Cause alleging several matters and demanding that Respondent gather evidence and records including his law school transcript and appear in five days before the court to defend his privileges and immunities and rights on September 1, 2006.

These orders were the first notices from the court to this Petitioner of any issue whether or not any rules may have been broken. The court claims he has refused to follow orders, incompetent, ignorant of the law and was not acting in his client's interest.

The court also claims the documents the Petitioner files in the Tonie Williams case, including the complaints, motions, and responses lacks citation to legal authority and or nonsensical, conclusory, unsupported by citation to law or evidence and erroneous and "indecipherable." (App. 5).

QUESTIONS PRESENTED – Continued

These allegations are not true. They were fabricated statements and or distorted facts.

A check of the Docket for the Tonie Williams case, 4:04-cv-246-Y would reveal that before August 25, 2006, the date this disciplinary proceeding was initiated by the court, there were 115 filings in the record of the case. The last was the motion by Washington Mutual's counsel for extension of time to file Motion in Limine. (*Tonie Williams*). The case was scheduled for trial in the early week of September 2006.

Petitioner filed Tonie Williams' case on March 31, 2004. He successfully defended against and defeated Washington Mutual's motion for summary judgment (*Tonie Williams*), motion to compel and for sanctions (*Tonie Williams*) and has filed a detailed motion for summary judgment against Washington Mutual (*Tonie Williams*).

The Order to Appear and to Show Cause of August 25, 2006 (App. 25-26) directed that he appear to defend himself before the court in five days, that is by 9:30 am September 1, 2006. He was ordered to bring with him amongst other things: (1) a certified copy of his transcript from the University of Dayton school of Law, (2) his law school diploma, and (3) his license to practice law from the State Board of New Mexico.

QUESTIONS PRESENTED – Continued

He filed an answer to the order together with supporting affidavit from his clients, which the court unfiled (Doc. 6), (it was also filed as Doc. 118 *Tonie Williams* case, 4:04-cv-246-Y), together with motion for injunctive relief (Doc. 3) before the hearing, requesting that he be given adequate opportunity and time to appear and show cause. It was denied. The hearing was held, that day, in his absence. Same day the court issued an order disbarring and removing him from his client's case. (*Tonie Williams*).

Petitioner was admitted to practice law by the State Bar of New Mexico and he properly applied and was admitted to practice on June 3, 2002, before the United States District Court for the Northern District of Texas where Honorable Judge Terry R. Means and Honorable Judge McBride are sitting in Fort Worth, Texas. Petitioner joined the local Tarrant County Bar Association in 2002. In his practice before the federal courts in Texas, he had represented clients in the United States District Court for the Northern District of Texas sitting in Dallas, in the *Kindred* case (referred to by the court in footnote 6 App. 22, *Kindred v. United States Postal Service* et al., 3:02-cv-1873-K). A review of the record of the case would show there was nothing wrong in the case. His client was fired by the postal service without his collective bargaining right. We filed suit against the United States Postal Service, while the case was pending; the United States Postal Service reinstated his collective bargaining

QUESTIONS PRESENTED – Continued

right and the court later dismissed the suit on the basis that collective bargaining process must be exhausted first.

Petitioner has never unlawfully appeared before a Texas state court. The Worldwide case (referred to by the court in footnote 5 & 7 App. 22-23, *Worldwide Environmental Products, Inc. v. Nucleus Oil Company,* 4:05-cv-041-A), Petitioner had filed the motion to remove on his own behalf as an intervenor, from state court to federal court. He filed with the state court copies of the motion in accordance with federal rules 28 U.S.C. § 1446 et seq., which required that a copy of the application to remove be filed with the state court.

Judge McBride denied the application on the basis that it lacks diversity jurisdiction.

The court continued, referring to anything the Petitioner has ever been involved in, including where he sued his law school before he graduated and further listing other information it had been gathering about Petitioner. (Footnote 8 & 9, at App. 24). Including reference to Rule 106 affidavit from a Linda Welch concerning service of process, but left out what the process was about and its relevance to this proceeding. (Footnote 3 & 4, at App. 22). The court also referenced the statement by Washington Mutual's attorney, Eugene DuBose, insulting and demeaning Petitioner and questioning why he did respond.

QUESTIONS PRESENTED – Continued

(Footnote 1 & 2, at App. 20-21). It is shocking that the court allowed such uncalled for attack. The court not only did not condemn it, it embraced the demeaning approach and backed it with the power of the office of the United States District Court.

In the Order Disbarring Attorney the court claims based on the evidence introduced by Eugene DuBose Washington Mutual's attorney it concluded Petitioner suborned perjury from his client in her deposition because she claimed she had purchased her home from Washington Mutual. However, neither the court nor Eugene DuBose presented the evidence his client, Tonie Williams submitted into the record at the deposition showing Washington Mutual purchased North American Mortgage Company and all its assets right after she bought her home. (Footnote 1 & 2, at App. 5-7). In the Order, the court also claimed Petitioner committed fraud on the court in that he filed the electronic copy of his client's motion for summary judgment without the appendix, but sent the hard copy to the court with the appendix (*Tonie Williams*). (App. 12). A review of the record would show that the electronic copy filed included the cover page for the appendices. It contained on it the fact he was having problems with his computer scanner and listed all documents contained in the appendix and that they are included in the hard copies sent to all parties, including the court.

QUESTIONS PRESENTED – Continued

A reasonable mind would question why would a United States District judge raise all these grounds consisting of distorted and or untrue facts and disbarred an attorney and removed him in the middle of a case depriving not only the attorney his due process rights but also the client. In its opinion the Fifth Circuit admitted that the sanction by the United States District Court for the Northern District of Texas was extreme. (App. 2). These actions by the District Court were motivated by intent to punish this attorney for not participating in the unethical local practice and custom of the District, where ex parte arrangements are conducted by the judges meeting with attorneys outside the court while their cases are pending in their courts. Why would this District judge be the sole prosecutor, the jury and the judge? Could the court have collected evidence and presented it to a neutral panel of judges to determine? Why would the court be in such haste that it would not provide enough time for Petitioner to prepare his case and appear? The question remains, does Petitioner have a due process right to proper notice and meaningful opportunity to a hearing with ample time to enable him to gather evidence and witnesses and prepare a defense and appear before a fair and impartial tribunal, before his privileges were revoked?

Three questions are presented:

QUESTIONS PRESENTED – Continued

ONE:

Whether the United States District Court for the Northern District of Texas violates due process when it initiated disciplinary action against an attorney in an on going civil case and gave the attorney only five (5) days from the date notice of the several allegations were brought to the date to appear to show cause and defend himself or else be disbarred?

TWO:

Whether a United States District Judge who raises allegations in a civil proceeding of unethical acts against an attorney, and claimed it is to protect the interest of the client and removed the attorney against consent of the client, and alone investigates his own allegations, decide attorney's and dismissed client's case without a hearing abused his discretion?

THREE:

Whether the Fifth Circuit applied the correct standard, that of abuse of discretion and clear and convincing evidence in the determination of attorney's rights to due process before privilege to practice is revoked in accordance with this Court's decisions on civil liberties?

LIST OF INTERESTED PARTIES

The parties below are listed in order of interest:

1. Mike Bello, Esq., Pro se 4200 S. Hulen, Ste. 672 Fort Worth, TX 76109	Petitioner
2. Tonie Williams	Plaintiff in the civil case, No. 4:04-cv-246-Y
3. Washington Mutual, N.A.	Defendant in the civil case, No. 4:04-cv-246-Y
4. Eugene DuBose, Esq.	Attorney for Washington Mutual, N.A.
5. Judge, Terry R. Means	United States District Judge for the Northern District of Texas

CORPORATE DISCLOSURE STATEMENT

The corporate disclosure statement is not applicable to the Petitioner herein since he is not a corporate entity, however, the Respondents may be.

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UNITED STATES CONSTITUTION

The First Amendment:

The First Amendment to the United States Constitution in pertinent part provides:

"Congress shall make no law respecting an establishment of religion, or abridging the freedom of speech, or of the press, or the right of the people . . . and to petition the Government for a redress of grievances." 7

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The Fifth Amendment:

The Fifth Amendment declares in pertinent part, "No person shall be held to answer for a capital, or otherwise infamous crime .. (sic) .. nor be deprived of life liberty, or property without due process of law." 2, 7

STATEMENT OF RELATED CASES

The following case is the related case to this appeal:

Tonie Williams v. Washington Mutual Bank, F.A., Civil Action No. 4:04-CV-246-Y 2, 3, 5, 6

OPINION BELOW

The United States Court of Appeals for the Fifth Circuit's decision was entered on March 26, 2008, and was designated not to be published. The unanimous decisions affirmed the United States District Court for the Northern District of Texas Decision of September 1, 2006, removing attorney from a civil case against the client's wish and disbarring the attorney from the jurisdiction. The Fifth Circuit affirmed the District Court claiming it has reviewed the evidence and it was supported by a clear and convincing evidence sufficient to establish one or more violations warranting these extreme sanctions.

STATEMENT OF JURISDICTION

Pursuant to the United States Supreme Court Rule 30.3 this Court has Jurisdiction and this Application for petition is submitted within the 90 days provision. The Court entered an order on June 30, 2008, to redo the brief within 60 days, it is now resubmitted today, Friday, August 29, 2008, timely. The Decision of the United States Court of Appeals for the Fifth Circuit was entered on March 26, 2008, and Jurisdiction was invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL RELEVANCE

Should Due Process Rights be denied and we still remain vested in the American values and the letters and spirit of the United States Constitution? The Fifth Amendment declares in pertinent part, "No person shall be held to answer for a capital, or otherwise infamous crime .. (sic) .. nor be deprived of life, liberty, or property without due process of law." Could a United States District Judge mete out an unprecedented and extreme sanction while ignoring every principle embodied in the Constitution we all swore to defend and support? Whatever allegations the District Judge has, should the accused not be given an opportunity to a meaningful hearing? Should the District Judge be the complainant, investigator, jury, and the executioner?

STATEMENT OF THE CASE

On August 25, 2006, the District Judge for the United States District Court for the Northern District of Texas, Honorable Terry R. Means, issued two simultaneous orders. The first order titled Order Regarding the Commencement of New Miscellaneous Action, Cause No. 4:06-MC-024-Y, stating that it was based on the ongoing case of *Tonie Williams v. Washington Mutual Bank, F.A.*, 4:04-cv-246-Y (Doc. 1) in this disciplinary proceeding.

The second order issued on August 25, 2006, was titled, Order to Appear and Show Cause alleging

several matters and demanding that Respondent gather evidence and records including his law school transcript and appear in five days before the court to defend his privileges and immunities and rights on September 1, 2006.

These orders were the first notices from the court to this Petitioner of any issue whether or not any rules may have been broken. The court claims he has refused to follow orders, incompetent, ignorant of the law and was not acting in his client interest. The court also claims the documents the Petitioner files in the *Tonie Williams* case, including the complaints, motions, and responses lacks citation to legal authority and or nonsensical, conclusory, unsupported by citation to law or evidence and erroneous and "indecipherable." (App. 5). These allegations are not true. They were fabricated statements and or distorted facts.

Petitioner was admitted to practice law by the State Bar of New Mexico and he properly applied and was admitted to practice on June 3, 2002, before the United States District Court for the Northern District of Texas where Honorable Judge Terry R. Means and Honorable Judge McBride are judges sitting in Fort Worth, Texas. Later that year he enrolled with the local Tarrant County Bar Association in Fort Worth.

It quickly became clear that the judges of the United States District Court for the Northern District of Texas and other judges were using the Tarrant County Bar as means to invite attorneys whose cases

are actually pending in their court to after hours at the Oil & Gas Club in Fort Worth and other social gatherings.

It was not a coincidence. The same unethical invitation method, by emails, were used first, during the case before honorable Judge McBride, *Roque v. Bank One*, 4:02-cv-868-A, filed in 2002 and a later settled out of court. During the time the case was pending in the court, Petitioner received a couple of emails inviting him to an after hour at a local social gathering, listing the judges that would be there. Judge McBride was included in the list. Petitioner believes such invited contact is not appropriate within the rules. Therefore, he never attended any of such invitations. In one of the conferences at the court chambers, the judge admonished him that he did not have the interest of his clients and did not know what is going on. He took it to mean if he had come as invited he would have gained better benefit for his client.

Again from the time the *Tonie Williams* case was filed he started receiving similar invitations by emails again from the Tarrant County Bar for meeting at the local social clubs including the name of Judge Means as one of the judges that would be there.

Not sure what to do, he decided at the end of 2005, when his membership renewal was due he would not renew it, and he did not. Petitioner did not present these unethical matters because it would

negatively effect judicial integrity and confidence in the courts. He could not have imagined that the matter would go this far and that the United States District Court could get away with such obvious due process violation. It was soon after that Judge Terry R. Means began his attack in coordination with the other attorney, Eugene DuBose. Even as we speak, the judge and Eugene DuBose have submitted the same bogus allegation to the state bar of New Mexico in an effort to use it to obtain similar results.

The District Judge fabricated and intentionally used his office to violate both Petitioner's and his client's constitutional rights to due process. The court's allegations were pretext for cover up of the unethical and unconstitutional acts intended to and did commit. In Tonie Williams Motion for Summary Judgment, the record will show that the electronic copy filed included all documents and notations, after listing all the documents to be contained in the appendix showing that he was having problems with his computer scanning the appendix documents, therefore instead has included them in the hard copies to all parties, which he did. It was not a hideous act. It was not deceptive and full notice was provided. However, it supplied a pretentious reason for the court to explain why it dismissed Tonie Williams' case without ruling on her motion for summary judgment, which was already in the record before the court. The court claims it was acting in the interest of Tonie Williams, however Tonie Williams submitted an affidavit that she is pleased with her attorney and it

was obvious the court was not acting in the interest of justice. On September 1, 2006, along with the order disbarring Petitioner (*In re Mike Bello*, 4:06-MC-024-Y Doc. 7) it also removed Petitioner from his client's case and refused all effort for a stay of the action pending the outcome of the appeals. *Tonie Williams* 4:04-cv-246-Y (Doc. 119). Tonie Williams filed motion for additional time to find another attorney; the court denied it. (Doc. 126). The interest of the court was clear.

The court claims Petitioner's filings are undecipherable, however, he had successfully defended against Washington Mutual, motion for summary judgment and would have defeated the second summary judgment as well if the district court had not applied the extreme sanctions as determined by the Fifth Circuit in its opinion.

The Fifth Circuit claimed it has seen evidence of the allegations that supported there was no abuse of discretion and then in another paragraph states that there was clear and convincing evidence supporting the extreme sanction imposed by the district court. However, the Fifth Circuit failed to lay out the evidence it claimed it had seen.

Which evidence? If a meaningful opportunity is provided, Petitioner would appear and present his evidence and would establish by preponderance of evidence that the allegations and actions by the District Judge in this case were precipitous and unwarranted.

It was to protect his end that the District Judge took the extreme actions to remove the attorney from the case, a civil case, and disbar him in the jurisdiction on fabricated allegations.

REASONS FOR GRANTING THE PETITION

The legal issues in the case were presented under two broad fundamental constitutional rights. The right to a free and impartial jury and the right to due process notice and adequate opportunity to a hearing, prior to being deprived of property, life and liberty.

It is important in the review of this case to establish that an attorney should not have to fear retaliation or attack in defending his client within the law.

It is also important to reconcile the different standards applied by the jurisdiction in dealing with attorney's right to the First Amendment right and to Due Process under the Fifth as well.

As such, broad application of the disciplinary rule could be extended by courts to include, attorneys who judges does not like, and instead of dealing with their case on a case-by-case bases. It would be easier for unethical judges to raise spurious and unfounded allegations, and limit an attorney's right to due process and disbar them from the jurisdiction.

Furthermore, it may be applied to attorneys of a different national origin with noticeable accent in their speech, therefore deciding that he lacks basic knowledge

of rules of practice. It will create an unpredictable chilling effect on diligent representation and the defense of clients whom otherwise would have no voice.

In, *In re Snyder,* 472 U.S. 634, 648 (1985), the Court had an opportunity to review a disciplinary proceeding with similar allegations as were made in this case and where the attorney was disbarred. The Court reversed the decision.

In the reversal the Court held that such allegation does not rise to the level warranting suspension from practice. Therefore, Petitioner submits that the Court would find that many grounds exist to grant this Application especially under the due process rights as asserted by the Court and the Constitution.

REVIEW IS WARRANTED TO DETERMINE WHETHER THE UNITED STATES DISTRICT COURT VIOLATES DUE PROCESS WHEN IT INITIATED DISCIPLINARY ACTION AGAINST AN ATTORNEY DURING AN ONGOING CASE AND GAVE THE ATTORNEY ONLY FIVE DAYS FROM THE DATE OF THE NOTICE OF THE SEVERAL ALLEGATIONS TO THE DATE TO APPEAR AND DEFEND HIMSELF BEFORE HE WAS DISBARRED.

In reviewing this question the Court would also have the opportunity to see other relevant constitutional issues. Such as, whether a United States

District Judge could raise remove an attorney from a civil suit while claiming it is to protect the interest of the client and removed the attorney against the consent of the client and without giving client an opportunity to a hearing and then dismissed her case within 30 days of removing the attorney. Whether the Fifth Circuit Applied the correct standard, that of abuse of discretion and clear and convincing evidence in the determination of attorneys rights to due process before privilege to practice is revoked, in accordance with this Courts decisions on civil liberties?

The disciplinary proceeding in this case violated due process right of the Petitioner in each and every way it is questioned. Importantly, because it addresses the attorney's right to be free from wrongful inducement or fear or favor in the zealous representation of his client.

The Attorney Is entitled to Due Process right to specific notice of charges and fair opportunity to be heard.

This Court addressed this issue before, see the opinion, by Justice Douglass in, *In Re Ruffalo,* 390 U.S. 544, 550-551 (1968), the Court held that a decision without fair notice of the specific grievance and adequate opportunity to be heard must be vacated. Id.

In addressing an attorney suspended from practice indefinitely by the federal court based on some allegation based on a state disciplinary proceeding,

this Court reversed the decision where looking whether there was a lack of due process in the state court proceeding. It found that in the state part of the proceeding due process was violated in part of the proceeding. The Court held that where there is absence of fair notice as to the reach of the grievance procedure and the precise nature of the charges, it deprived petitioner of procedural due process.

In the proceedings against Petitioner the District Court alleges everything it could possibly allege, including that he may have appeared before state court, that he may have sued a law school, he may not have graduated from law school, that he may not understand the law and that he is ignorant. However, it gave Petitioner only five days to appear and defend himself. Though, Petitioner presented the due process issue and asked for more time, the motion for injunctive relief was denied and he was disbarred indefinitely.

The District Court in its order to show cause claimed it was trying to protect the public, though why, was not specifically stated. It denied Petitioner right to due process by not providing him notice and opportunity to a fair hearing. This Court has held that even where public protection interest is established as ground for the discipline it must still afford Petitioner the right to due process. *Ex Parte Garland,* 4 Wall. 333, 380 (1867), declaring that disbarment to protect the public is a punishment or penalty imposed on the lawyer, accordingly he is still entitled to procedural due process citing which include fair notice of

the charge. See, *In Re Oliver*, 333 U.S. 257, 273 (1948); *Spevack v. Klein,* 385 U.S. 511, 515 (1967).

All allegations raised by the District Court were allegations not claimed to have occurred in an open court. In that case the Courts have established a minimum standard, see, *Randall v. Brigham*, 7 Wall. 523, 540 (1869), where the Court held that when proceeding for disbarment are not taken for matters occurring in open court, in the presence of the judges, notice should be given to the attorney of the charges made and opportunity afforded him for explanation and to prepare his defense. See also, *Selling v. Radford*, 243 U.S. 46 (1917).

Petitioner also raised the issue of fairness in his appeal where the District Judge that alleges all these matters is the sole and only person involved in collecting these matters, investigating it, trying it and rendering a decision. This Court addressed a similar issue in, *In Re Oliver*, 333 U.S. 257 (1948) finding it unconstitutional on the due process clause of the Fourteenth Amendment where, Michigan uses a one-man grand jury. The Court held that it violate the law of the land that no man life liberty or property be forfeited as a punishment until there has been a charge fairly made and fairly tried in a public tribunal, quoting, *Chambers v. Florida,* 309 U.S. 227 (1940). The Court declared that the Fourteenth Amendment right to due process is just like that in the Fifth that it was intended to guarantee procedural standards adequate and appropriate, then and after to protect at all times people charged with or suspected of

crime by those holding positions of power and authority. *Chambers*, at 231.

The order to appear and to show cause revealed for the first time, that the Honorable Judge has been collecting information, conducting investigation on him without his knowledge and without prior notice to him. Though, the order to show cause alleges several speculative matters such as: that Respondent might have appeared in a state court illegally; that he may not have graduated from law school; that he is ignorant, all of which were not true, unfounded and or fabricated. The allegations were not only false they were unlawfully obtained, not related to the case before the court and the facts were intentionally distorted. Even if the allegation bears a resemblance to truth, it is still not enough ground to be the police, jury and the judge and to deny opportunity to defend himself to Appellant.

The Fifth Circuit Decision Failed to Safeguard the Rule on Due Process established by this Court.

Reviewing the opinion by the Court of Appeals for the Fifth Circuit, the Court would find first a misstatement. The Court correctly states that Petitioner raises the legal issue that his due process right was violated, however it misstates "Because he received notice of the charges and an opportunity to respond, he received a process to which he was entitled." (App.

2). This is a misstatement. It was opposite of Petitioners contention.

The Court of Appeals erred and it failed to address the due process issue as it applies to attorney discipline as established by this Court, instead it applies a wrong standard. The standard of Abuse of Discretion affirmed by this Court in *Chambers v. Nasco Inc.*, 501 U.S. 32 (1991). (App. 2). That case addressed standard for scope of sanction on a litigant for bad faith conduct in a diversity case. That standard is not applicable in this case.

The case presents a good opportunity to this Court to address the constitutional issues as it applies to attorney practices and their discipline in federal courts. Therefore, the co-decisions and orders below constitute arbitrary and capricious decisions, clearly erroneous and unconstitutional.

CONCLUSION

Therefore for the forgoing reasons, writ of certiorari should be granted.

Respectfully submitted,

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Petitioner

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 06-11111
Summary Calendar

IN RE: MIKE BELLO

Plaintiff-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:06-MC-24

(Filed Mar. 26, 2008)

Before JONES, Chief Judge, and HIGGINBOTHAM and CLEMENT, Circuit Judges.

PER CURIAM:*

Mike Bello argues on appeal that the district court abused its discretion by disbarring him from practicing before the Northern District of Texas. The court disbarred Bello pursuant to N.D. TEX. R. 83.8(b)(2)-(4), after finding that Bello's actions in his

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* Pursuant to 5TH CIR. R. 47.5 the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

representation of his client in Cause No. 4:04-CV-246-Y and in other cases evinced a failure to comply with court orders, unethical behavior, and an inability to conduct proper litigation.

On appeal, Bello contends that the order disbarring him violated unspecified First Amendment protections. A federal court has the inherent authority "to control admission to its bar and to discipline attorneys who appear before it." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991). Bello has not established that Supreme Court case law addressing an attorney's First Amendment rights are applicable in the instant case. *See, Shapero v. Kentucky Bar Ass'n*, 486 U.S. 466, 472 (1988). Bello's assertions of judicial bias are frivolous. *See Liteky v. United States*, 510 U.S. 540, 555 (1994).

Bello also asserts that the district court deprived him of due process. Because he received notice of the charges and an opportunity to respond, he received the process to which he was entitled. *See NASCO, Inc. v. Calcasieu Television and Radio, Inc.*, 894 F.2d 696, 707 (5th Cir. 1990). Bello's contention that he was denied equal protection is meritless. *See Thompson v. Patteson*, 985 F.2d 202, 207 (5th Cir. 1993).

We have reviewed the record and conclude that the district court's decision to disbar Bello is supported by "clear and convincing" evidence sufficient to establish "one or more violations warranting this extreme sanction." *In re Medrano*, 956 F.2d 101, 102

(5th Cir. 1992). As a result, the judgment of the district court is AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE MIKE BELLO	§	ACTION NO.
	§	4:06-MC-024-Y
	§	
	§	(Filed Sept. 1, 2006)

ORDER DISBARRING ATTORNEY
(with special instructions to the clerk of Court)

Gany Mike Bello was admitted to the bar of the Northern District of Texas on June 3, 2002. On August 25, 2006, the Court ordered Bello to appear and show cause before the Court regarding such membership. The Court's order stated:

> The inability to conduct litigation properly is a ground for disciplinary action against a member of the bar of this Court. *See* Local Rule 83.8(b)(1). Bello's apparent inability is so significant that Judge Means believes that Bello's privilege to practice before this Court should be carefully reexamined and reconsidered at a hearing in open court. Specifically, Judge Means believes that the following is apparent from the record in [*Tonie Williams v. Washington Mutual Bank, F.A.*, Civil Action No. 4:04-CV-246-Y ("the Williams matter")]:
>
> (1) Bello has repeatedly demonstrated an inability to comply with the Federal Rules of Civil Procedure and orders of the Court.

(2) Bello's [pleadings, filings, motions, and responses (collectively, "papers")] are so indecipherable as to render them virtually nonresponsive or, at the very least, non-persuasive on any manner for which they have been filed. Bello's papers often lack citation to legal authority and, where such authority is cited, it is often wholly inapposite to the relief requested or argument made. Moreover, Bello's papers demonstrate his inability to properly adduce evidence into the record and contain little more than conclusory statements. Often, where the import of Bello's papers can be gleaned, it is nonsensical, conclusory, unsupported by citation to law or evidence, and erroneous.

(3) To the extent his papers can be understood, Bello does not fully protect his client's interests by filing all appropriate responses and replies.[1]

(4) In his previous appearances with the Court, either before the Court itself or in conference with the

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[1] In the Williams matter, Bello did not file a reply brief to the defendant's response to the plaintiff's motion for summary judgment even though the defendant's response contained argument and evidence beyond the plaintiff's motion and response to the defendant's motion for summary judgment.

Court's briefing attorney, Bello has demonstrated an almost total lack of comprehension of basic legal concepts, including what constitutes a stipulated fact.

(5) Bello has, more than once, failed to comply with the orders of the Court, including orders to submit to discovery requests or to specify the nature of the plaintiff's claims.

(6) Bello's conduct in litigating the Williams matter has been so poor as to garner statements on the record from the defendant's counsel regarding the appropriateness of Bello's membership in the bar of the Northern District of Texas.[2]

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[2] In a most extraordinary reply to the plaintiff's response to the defendant's Motion to Strike and for Sanctions, Eugene DuBose, counsel for the defendant, wrote:

> [I]t is the considered opinion of the undersigned counsel that Mr. Bello should have his privilege of practicing in the Northern District of Texas withdrawn. The litigation of this suit has shown that Mr. Bello has [sic] neither by ability nor by character qualified to practice law in federal court. He is massively ignorant of the law, as was demonstrated by his breathtaking ignorance of the complex federal statutes under which he purported to bring this case. If one may draw conclusions from the documents filed in this case, it does not appear that he understands how federal statutes operate, how Congress delegates rule-making authority to federal administrative agencies or how the rules

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those agencies promulgate are integrated as essential parts of the operation and enforcement of federal statutes. Indeed, in this case it appears either that he has not even read the statutes he cited or, if he has read them, that he is incapable of understanding them. He clearly has not read any of the operative federal regulations, of whose existence he appears to be entirely ignorant, nor any of the relevant case law. He is ignorant of what a stipulation of fact is. He has proved himself unable or unwilling to comply with a simple and straitforward [sic] discovery order. Finally, for him to permit his client to testify, as she did in her deposition, that she purchased her home from Defendant's predecessor in interest, North American Mortgage Company, when every document pertaining to the sale, including the contract of sale, the HUD-1 closing statement, her own contemporaneously sworn affidavit and the very deed by which she took title to her home, conclusively establishes that she purchased the house from Dissmore Homes, is to suborn perjury. Any one of these failures to live up to the standards of practice in the federal courts should give one pause. For all of them to occur with a single attorney in a single case argues for but a single solution: revocation of his privilege to practice in this court.

Perhaps most importantly, revocation will prevent Mr. Bello from doing damage to a client with a meritorious claim who has had the misfortune to engage him. The damage he is capable of doing to a client with a meritorious claim could be substantial; his future malpractice [is] not simply foreseeable, but is a sure thing. Here it is primarily Washington Mutual Bank that has bourne [sic] the burden of Mr. Bello's incompetence. If this court does not act promptly and decisively, innocent clients may well be his next victims.

(Def.'s Reply to Pl.'s Resp. to Def.'s Mot. Strike and Sanctions [doc. # 95] at 6-7.)

Moreover, Judge Means believes that the following is also apparent from an examination of relevant outside sources and Bello's other appearances in this Court:

(1) Though Bello is not a member of the State Bar of Texas,[3] he has filed several cases in this Court and maintains an office in Fort Worth, Texas (though the consistency with which Bello operates that office is uncertain).[4]

(2) In at least one instance Bello may have acted as an attorney in a Texas state court.[5]

(3) In at least two prior instances, Bello has brought to this Court causes of

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[3] Bello is a member of the State Bar of New Mexico, bar number 14959.

[4] The Court has in its possession a Rule 106 Affidavit by Linda D. Welch, a private process server, in which Welch discusses her many attempts to issue service of process on Bello at his Fort Worth address. Each time Welch attempted to serve Bello at his Fort Worth address there was no one at that location.

[5] Bello removed to this Court Cause No. 067-208404-04 from the 67th Judicial District Court of Texas, Tarrant County. Bello signed the notice of removal on behalf of all of the defendants, only one of whom was Bello himself; the other defendant was Nucleus Oil Corporation. *See Worldwide Environmental Products, Inc. v. Nucleus Oil Corp., et al.*, Civil Action No. 4:05-CV-041-A. A notice of removal was also filed in the state-court suit. The Court can only assume that Bello signed the notice of removal filed in the state court.

action over which the Court did not have jurisdiction.[6] The Court can only assume that Bello attempted to have this Court preside over those cases because Bello cannot practice in the state courts of Texas.

(4) Bello's removal of *Worldwide Environmental* to this Court was so poorly justified that Judge McBryde, in his order remanding the case to state court, specifically admonished Bello.[7]

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[6] In *Kindred v. U.S. Postal Service, et al.*, Civil Action No. 3:02-CV-1873-K, the Honorable Ed Kinkeade dismissed the plaintiff's claims in a three-page opinion that briefly outlined the numerous reasons the plaintiff failed to state a claim. (May 13, 2003, Order [doc. # 25], Civil Action No. 3:02-CV-1873-K.) Bello represented the plaintiff in *Kindred*. In *Worldwide Environmental*, the Honorable John McBryde, in a brief two-page order, quickly remanded the cause to state court because the Court lacked jurisdiction. (January 26, 2005, Order [doc. # 3], Civil Action No. 4:05-CV-041-A.) Bello represented both of the removing defendants in *Worldwide Environmental*.

[7] Judge McBryde stated:

> As Bello, who reports to be an attorney, should well know, the district courts have original jurisdiction of all civil actions where the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, and is between citizens of different states. 28 U.S.C. § 1332(a). That a party has filed, or intends to file, a counterclaim does not give the court jurisdiction. The court suggests that if Bello intends to make any other filings in a United States District Court, he very carefully consider his obligations under Rule 11

(Continued on following page)

(5) Bello may be attempting to practice law in Texas without being licensed in this state by using his membership in the bar of the Northern District of Texas to do so.[8]

(6) Bello may have begun a cause of action in this Court in which he alleged claims on his own behalf that a different federal district court had already decided ("the Ohio suit") and that were on appeal before the United States Court of Appeals for the Sixth Circuit.[9]

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of the Federal Rules of Civil Procedure before making any such filing.

(January 26, 2005, Order [doc. # 3], Civil Action # 4:05-CV-041-A.)

[8] The Court contacted the Texas Board of Law Examiners and obtained information confirming that Bello attempted to pass the Texas Bar Examination in July 2000 and July 2002. The website for the Texas Board of Law Examiners, which contains lists of every person who passes its entrance examination, does not show Bello as passing either the July 2000 or July 2002 exams. And, in at least one instance, Bello's inability to practice in state court lead him to remove a cause from state court to federal court that the federal court clearly lacked jurisdiction over. *See supra* notes 5-7.

[9] In the Ohio suit, Bello sued his law school and one of his law-school professors for discrimination, breach of duty, and fraudulent misrepresentation. *See Bello v. Shaw,* 182 F.3d 916, No. 98-3459, 1999 U.S. App. LEXIS 13989, at *1-2 (6th Cir. June 17, 1999). In *Bello v. Shaw, et al.,* Civil Action # 4:99-CV-241-Y, Bello began a cause of action in this Court against his law school and the same law professor for breach of duty and fraudulent

(Continued on following page)

> The record therefore demonstrates a repeated failure by Bello to conduct litigation properly, which strongly suggests his inability to do so. Regardless, Bello's acts and omissions have wasted judicial resources. Further, they have been a drain on his opponents' time, efforts, and money, and also likely diminished their ability to defend themselves against the claims of Bello's clients.

(Aug. 25, 2006, Order to Show Cause, 4:06-MC-024-Y [doc. # 2].)

Having been so charged, Bello did not appear at the September 1 hearing.[10] At the hearing the Court

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misrepresentation. (March 29, 1999, Compl. [doc. # 1], Civil Action # 4:99-CV-241-Y (N.D. Tex.).) The Court unfiled Bello's complaint because it was deficient; Bello did not re-file, which lead to the dismissal of Civil Action # 4:99-CV-241-Y.

[10] On September 1 Bello did file a Motion for Injunctive Relief, attached to which was an affidavit from the plaintiff in the Williams matter and Bello's own answers and objections to the Court's show-cause order. Those papers only demonstrate further Bello's inability to conduct litigation properly and comply with the Court's orders. Not only are the papers Bello filed on September 1 virtually nonsensical, in that Bello's motion asks the Court to enjoin itself, and indecipherable, like many of his other filings, but they also demonstrate Bello's inability to comply with instructions from the Court. The Court's August 25 order specifically instructed Bello not to file any objection to the show-cause order and to reserve all objections for the show-cause hearing. Moreover, the affidavit filed by the plaintiff in the Williams matter demonstrates that Bello has wholly misrepresented the decisions and orders of this Court to his client. Such conduct is reprehensible.

accepted evidence and heard statements from the defendant's attorney in the Williams matter, which evidence and statements led the Court to find that Bello may have suborned perjury from his own client, Tonie Williams, during her deposition. Such conduct does not merit membership in the bar of this Court. Moreover, the Court notes that, in preparing for the show-cause hearing, it reviewed all of the papers filed by Bello in the Williams matter and discovered that, although Bello filed a motion for summary judgment on behalf of his client, he did not file an appendix in support of that motion; he did, however, send an appendix to the Court that was attached to his courtesy paper copy of the plaintiff's summary-judgment motion, leading the Court to erroneously assume that the appendix had been filed and thus properly placed on the record. Such conduct demonstrates behavior akin to fraud on the Court.

Local rule 83.7 governs the admission of attorneys to the United States District Court for the Northern District ("the Northern District"). That rule provides that an attorney licensed to practice in the state of Texas may be admitted so long as he is "of good personal and professional character." A court may discipline an attorney for, among other things, failure to comply with any rule or order of the Court, unethical behavior, or the inability to conduct litigation properly. Local rule 83.8(b)(2) & (4). For the reasons stated herein and at the Court's September 1 show-cause hearing, the Court concludes that Bello is guilty of failing to conduct litigation properly and

comply with the orders of the Court, and has demonstrated unethical behavior. Moreover, the Court deems Bello's election not to appear at the September 1 show-cause hearing an expression of no contest to the charges laid against him in the bill of particulars contained in the Court's August 25 order. Having so found and concluded, the Court must revoke Bello's membership from the bar of the Northern District of Texas.

Therefore, Gany Mike Bello (a/k/a Mike Bello) is hereby DISBARRED from the bar of the Northern District of Texas, and his membership in that bar is hereby REVOKED. The clerk of Court is DIRECTED to note Bello's disbarment in his attorney file.

Further, Bello is DIRECTED to provide copies of this order to the following within **five (5) days** of this order's issuance: (1) the plaintiff in the Williams matter; (2) the State Bar of New Mexico; and (3) any other bar of which Bello is a member. Bello must file proof of mailing (meaning certified-mail slips) of the above no later than **twenty (20) days** from the date of this order's issuance.

Finally, the clerk of Court is DIRECTED to send a copy of this order to (1) the State bar of Texas; (2) the State bar of New Mexico; (3) the United States Court of Appeals for the Fifth Circuit; and (4) the Unlicensed Practice of Law Committee of the State of Texas. Further, the clerk shall use all diligence and attempt to obtain the address for Tonie Williams, the

plaintiff in 4:04-CV-246-Y, and, upon obtaining that address, send a copy of this order to Williams.

SIGNED September 1, 2006.

/s/ Terry R. Means
TERRY R. MEANS
UNITED STATES
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE MIKE BELLO	§	ACTION NO.
	§	4:06-MC-024-Y
	§	
	§	(Filed Sept. 1, 2006)

ORDER DENYING MOTION
FOR INJUNCTIVE RELIEF

Pending before the Court is Mike Bello's motion for injunctive relief [doc. # 3], filed September 1, 2006. Having carefully reviewed the motion, and being that it is without merit and is both nonsensical and indecipherable, the Court concludes that it should be and is hereby DENIED.

SIGNED September 1, 2006.

/s/ Terry R. Means
TERRY R. MEANS
UNITED STATES
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

TONIE WILLIAMS	§	CIVIL ACTION NO.
VS.	§	4:04-CV-246-Y
	§	
WASHINGTON MUTUAL BANK, FA	§	ACTION NO.
	§	4:06-MC-024-Y
AND	§	(Filed Aug. 25, 2006)
	§	
IN RE MIKE BELLO		

ORDER REGARDING COMMENCEMENT OF NEW MISCELLANEOUS ACTION
(with special instructions to the clerk of Court)

On the same date as this order's issuance the Court ordered Mike Bello, counsel for plaintiff Tonie Williams in Civil Action No. 4:04-CV-246-Y, to appear and show cause as to why he should not be sanctioned for the poor caliber of representation he is providing to Williams in Civil Action No. 4:04-CV-246-Y. The Court concludes that a separate action should be commenced regarding the Court's discipline of Bello.

Consequently, the clerk of Court is DIRECTED to commence Action Number 4:06-MC-024-Y, *In re Mike Bello,* with the entry of this order. The only party in Action Number 4:06-MC-024-Y will be Mike Bello, whose contact information the clerk of Court will copy from that provided for Bello in Civil Action No. 4:04-CV-246-Y (the Court will assume, for the time being, that Bello will represent himself in Action Number

4:06-MC-024-Y). All future filings regarding Bello's discipline in this Court must be filed in Action Number 4:06-MC-024-Y.

Further, the clerk of Court is DIRECTED to note on the docket for Action Number 4:06-MC-024-Y that Civil Action No. 4:04-CV-246-Y is a related case and to note on the docket for Civil Action No. 4:04-CV-246-Y that Action Number 4:06-MC-024-Y is a related case.

SIGNED August 25, 2006.

/s/ Terry R. Means
TERRY R. MEANS
UNITED STATES
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE MIKE BELLO	§	
	§	
	§	ACTION NO. 4:06-MC-024-Y
	§	
	§	

ORDER TO APPEAR AND SHOW CAUSE
(with special instructions to the clerk of Court)

With growing alarm, the undersigned, the Honorable Terry R. Means, has observed the conduct of Gany Mike Bello in cases before the United States District Court for the Northern District of Texas since Bello was admitted to practice before this Court on June 3, 2002. In particular, Judge Means is alarmed by Bello's apparent inability to conduct litigation properly, as demonstrated primarily by his pleadings, filings, motions, and responses (collectively, "papers") in a case before Judge Means styled *Tonie Williams v. Washington Mutual Bank, F.A.*, Civil Action No. 4:04-CV-246-Y ("the Williams matter").

The inability to conduct litigation properly is a ground for disciplinary action against a member of the bar of this Court. *See* Local Rule 83.8(b)(1). Bello's apparent inability is so significant that Judge Means believes that Bello's privilege to practice before this Court should be carefully re-examined and reconsidered at a hearing in open court. Specifically, Judge Means believes that the following is apparent from the record in the Williams matter:

(1) Bello has repeatedly demonstrated an inability to comply with the Federal Rules of Civil Procedure and orders of the Court.

(2) Bello's papers are so indecipherable as to render them virtually nonresponsive or, at the very least, non-persuasive on any manner for which they have been filed. Bello's papers often lack citation to legal authority and, where such authority is cited, it is often wholly inapposite to the relief requested or argument made. Moreover, Bello's papers demonstrate his inability to properly adduce evidence into the record and contain little more than conclusory statements. Often, where the import of Bello's papers can be gleaned, it is nonsensical, conclusory, unsupported by citation to law or evidence, and erroneous.

(3) To the extent his papers can be understood, Bello does not fully protect his client's interests by filing all appropriate responses and replies.[1]

(4) In his previous appearances with the Court, either before the Court itself or in conference with the Court's briefing attorney, Bello has demonstrated an almost total lack of

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[1] In the Williams matter, Bello did not file a reply brief to the defendant's response to the plaintiff's motion for summary judgment even though the defendant's response contained argument and evidence beyond the plaintiff's motion and response to the defendant's motion for summary judgment.

comprehension of basic legal concepts, including what constitutes a stipulated fact.

(5) Bello has, more than once, failed to comply with the orders of the Court, including orders to submit to discovery requests or to specify the nature of the plaintiff's claims.

(6) Bello's conduct in litigating the Williams matter has been so poor as to garner statements on the record from the defendant's counsel regarding the appropriateness of Bello's membership in the bar of the Northern District of Texas.[2]

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[2] In a most extraordinary reply to the plaintiff's response to the defendant's Motion to Strike and for Sanctions, Eugene DuBose, counsel for the defendant, wrote:

> [I]t is the considered opinion of the undersigned counsel that Mr. Bello should have his privilege of practicing in the Northern District of Texas withdrawn. The litigation of this suit has shown that Mr. Bello has [sic] neither by ability nor by character qualified to practice law in federal court. He is massively ignorant of the law, as was demonstrated by his breathtaking ignorance of the complex federal statutes under which he purported to bring this case. If one may draw conclusions from the documents filed in this case, it does not appear that he understands how federal statutes operate, how Congress delegates rule-making authority to federal administrative agencies or how the rules those agencies promulgate are integrated as essential parts of the operation and enforcement of federal statutes. Indeed, in this case it appears either that he has not even read the statutes he cited or, if he has read them, that he is incapable of understanding them. He clearly has not read any of the operative federal regulations, of whose existence

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Moreover, Judge Means believes that the following is also apparent from an examination of relevant outside sources and Bello's other appearances in this Court:

> he appears to be entirely ignorant, nor any of the relevant case law. He is ignorant of what a stipulation of fact is. He has proved himself unable or unwilling to comply with a simple and straitforward [sic] discovery order. Finally, for him to permit his client to testify, as she did in her deposition, that she purchased her home from Defendant's predecessor in interest, North American Mortgage Company, when every document pertaining to the sale, including the contract of sale, the HUD-1 closing statement, her own contemporaneously sworn affidavit and the very deed by which she took title to her home, conclusively establishes that she purchased the house from Dissmore Homes, is to suborn perjury. Any one of these failures to live up to the standards of practice in the federal courts should give one pause. For all of them to occur with a single attorney in a single case argues for but a single solution: revocation of his privilege to practice in this court.
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> Perhaps most importantly, revocation will prevent Mr. Bello from doing damage to a client with a meritorious claim who has had the misfortune to engage him. The damage he is capable of doing to a client with a meritorious claim could be substantial; his future malpractice [is] not simply foreseeable, but is a sure thing. Here it is primarily Washington Mutual Bank that has bourne [sic] the burden of Mr. Bello's incompetence. If this court does not act promptly and decisively, innocent clients may well be his next victims.

(Def.'s Reply to Pl.'s Resp. to Def.'s Mot. Strike and Sanctions [doc. # 95] at 6-7.)

(1) Though Bello is not a member of the State Bar of Texas,[3] he has filed several cases in this Court and maintains an office in port Worth, Texas (though the consistency with which Bello operates that office is uncertain).[4]

(2) In at least one instance Bello may have acted as an attorney in a Texas state court.[5]

(3) In at least two prior instances, Bello has brought to this Court causes of action over which the Court did not have jurisdiction.[6] The Court can only assume that

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[4] The Court has in its possession a Rule 106 Affidavit by Linda D. Welch, a private process server, in which Welch discusses her many attempts to issue service of process on Bello at his Fort Worth address. Each time Welch attempted to serve Bello at his Fort Worth address there was no one at that location.

[5] Bello removed to this Court Cause No. 067-208404-04 from the 67th Judicial District Court of Texas, Tarrant County. Bello signed the notice of removal on behalf of all of the defendants, only one of whom was Bello himself; the other defendant was Nucleus Oil Corporation. *See Worldwide Environmental Products, Inc. v. Nucleus Oil Corp., et al.*, Civil Action No. 4:05-CV-041-A. A notice of removal was also filed in the state-court suit. The Court can only assume that Bello signed the notice of removal filed in the state court.

[6] In *Kindred v. U.S. Postal Service, et al.*, Civil Action No. 3:02-CV-1873-K, the Honorable Ed Kinkeade dismissed the plaintiff's claims in a three-page opinion that briefly outlined the numerous reasons the plaintiff failed to state a claim. (May 13, 2003, Order [doc. # 25], Civil Action No. 3:02-CV-1873-K.)

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Bello attempted to have this Court preside over those cases because Bello cannot practice in the state courts of Texas.

(4) Bello's removal of *Worldwide Environmental* to this Court was so poorly justified that Judge McBryde, in his order remanding the case to state court, specifically admonished Bello.[7]

(5) Bello may be attempting to practice law in Texas without being licensed in this state by using his membership in the bar

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Bello represented the plaintiff in Kindred. In Worldwide Environmental, the Honorable John McBryde, in a brief two-page order, quickly remanded the cause to state court because the Court lacked jurisdiction. (January 26, 2005, Order [doc. # 3], Civil Action No. 4:05-CV-041-A.) Bello represented both of the removing defendants in Worldwide Environmental.

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> As Bello, who reports to be an attorney, should well know, the district courts have original jurisdiction of all civil actions where the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, and is between citizens of different states. 28 U.S.C. § 1332(a). That a party has filed, or intends to file, a counterclaim does not give the court jurisdiction. The court suggests that if Bello intends to make any other filings in a United States District Court, he very carefully consider his obligations under Rule 11 of the Federal Rules of Civil Procedure before making any such filing.

(January 26, 2005, Order [doc. # 3], Civil Action # 4:05-CV-041-A.)

of the Northern District of Texas to do so.[8]

(6) Bello may have begun a cause of action in this Court in which he alleged claims on his own behalf that a differerit federal district court had already decided ("the Ohio suit") and that were on appeal before the United States Court of Appeals for the Sixth Circuit.[9]

The record therefore demonstrates a repeated failure by Bello to conduct litigation properly, which strongly suggests his inability to do so. Regardless, Bello's acts and omissions have wasted judicial resources.

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[8] The Court contacted the Texas Board of Law Examiners and obtained information confirming that Bello attempted to pass the Texas Bar Examination in July 2000 and July 2002. The website for the Texas Board of Law Examiners, which contains lists of every person who passes its entrance examination, does not show Bello as passing either the July 2000 or July 2002 exams. And, in at least one instance, Bello's inability to practice in state court lead him to remove a cause from state court to federal court that the federal court clearly lacked jurisdiction over. *See supra* notes 5-7.

[9] In the Ohio suit, Bellow sued his law school and one of his law-school professors for discrimination, breach of duty, and fraudulent misrepresentation. *See Bellow v. Shaw*, 182 F.3d 916, No. 98-3459, 1999 U.S. App. LEXIS 13989, at *1-2 (6th Cir. June 17, 1999). In *Bellow v. Shaw, et al.*, Civil Action # 4:99-CV-241-Y, Bello began a cause of action in this Court against his law school and the same law professor for breach of duty and fraudulent misrepresentation. (March 29, 1999, Compl. [doc. #1], Civil Action # 4:99-CV-241-Y (N.D. Tex.).) The Court unfiled Bello's complaint because it was deficient; Bellow did not re-file, which lead to the dismissal of Civil Action # 4:99 CV-241-Y.

Further, they have been a drain on his opponents' time, efforts, and money, and also likely diminished their ability to defend themselves against the claims of Bello's clients.

Local rule 83.7 governs the admission of attorneys to the United States District Court for the Northern District ("the Northern District"). That rule provides that an attorney licensed to practice in the state of Texas may be admitted so long as he is "of good personal and professional character." A court may discipline an attorney for, among other things, failure to comply with any rule or order of the court, unethical behavior, or the inability to conduct litigation properly. Local rule 83.8(b)(2) & (4).

The Court, having reviewed the papers on file in this case, concludes that Bello may be subject to discipline by the Court pursuant to local rule 83.8(b). Such discipline may include Bello's loss of membership in the bar for the Northern District of Texas. Bello is therefore ORDERED to APPEAR and SHOW at **9:30 a.m. on Friday, September 1, 2006**, whether any of the allegations and information set out in the numbered paragraphs above are incorrect and, if any are correct, SHOW CAUSE why he should not be suspended or barred from practicing in the Northern District of Texas or otherwise disciplined by the Court.

Bello is not required to supply any information to the Court prior to the hearing; any evidence or arguments he may wish to present may be offered at the

show-cause hearing, where he may be represented by counsel. At the hearing Bello must present the following: (1) a certified transcript from the University of Dayton School of Law that establishes Bello's attendance at and graduation from that institution; (2) Bello's law-school diploma; and (3) Bello's license to practice law from the State Bar of New Mexico.

The attorney for the defendant in the Williams matter, Eugene DuBose, is not required to be in attendance at the show-cause hearing, though he may appear if he wishes to (and such appearance would likely aid the Court). In lieu of appearing, DuBose may also file, prior to September 1, an affidavit supplying pertinent information to the Court.[10] The same applies to the plaintiff in the Williams matter, Tonie Williams: if she wishes to appear, she may do so, and such appearance would likely aid the Court, but such appearance is not required.

Further, Bello is DIRECTED to provide copies of this order to the following within **five (5) days** of this order's issuance: (1) the plaintiff in the Williams matter; (2) the State Bar of New Mexico; (3) the Unlicensed Practice of Law Committee of the State of Texas; and (4) any other bar of which Bello is a member. Bello must present proof of mailing (meaning

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[10] Should DuBose file any affidavit prior to the show-cause hearing, he must serve a copy of that affidavit on Bello no later than three days prior to the date of the hearing.

certified-mail slips) of the above at the Court's September 1 show-cause hearing.

Finally, the clerk of Court is DIRECTED to send a copy of this order to Eugene Dubose via email at gene@ezlaw.org and facsimile at (214) 520-2985.

SIGNED August 25, 2006.

/s/ Terry R. Means
TERRY R. MEANS
UNITED STATES
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS FORTWORTH DIVISION

IN RE: MIKE BELLO, ESQ. RESPONDENT **ACTION No. 4:06-MC-024-Y**

REF: **RELATED TO CASE No. 4:04-CV-246-Y**

RESPONDENT'S MOTION FOR INJUNCTIVE RELIEF WITH AFFIDAVIT

TO THE HONORABLE JUDGES OF THE SAID COURT:

Respondent, Mike Bello named herein as the Party to answer and to Appear and show cause and Defend his Privileges and Immunities as those terms have been defined in the Constitution, the laws and by the Courts, now appear and submit to the Court his Motion For Injunctive Relief from the Order to show cause and to Appear on Friday, September 1, 2006 at 9.30 am. That he received the order dated August 25, 2005 on Monday, August 28, 2006.

Injunctive relief is necessary to protect Respondent's constitutional right to due process which would be lost if the order is enforced. Irreparable damages without adequate remedy at law would result to his person, reputation, present and future interest and unlawfully deny him his privileges and immunities if the order to appear enforced. It would violate his due process and the rights to be informed of the nature

and cause of the accusation against him and to be confronted with the witnesses against him and the right to obtain his own witnesses and prepare a response and a defense. Therefore, holding the hearing as scheduled would deny him constitutional due process, opportunity to a meaningful hearing and the right to be informed of the nature and the witnesses against him in a disciplinary proceeding. **Selling v. Radford**, 243 U.S. 46 (1917); In Re Oliver, 333 U.S. 257, 273 (1948); **Theard v. U.S.** 354 U.S. 278, (1957).

RELEVANT FACTS:

That Respondent received the order to appear and to show cause on Monday August 28, 2006 just four days before the date ordered to appear, that is Friday, September 1, 2006, and hereby timely submits his Motion which incorporates the relevant facts as contained in his Answers and Objection and Tonie Williams affidavit in Support of Respondent showing her satisfaction with his effective representation. The relevant facts are lacking based on the failure of in the order to show cause and therefore, Respondent by incorporation submits his answers and objections together with the affidavit of Tonie Williams and his affidavit for the record of the relevant facts herein.

That he has not received due process notice of relevant and supported allegation of any rules he has violated. That he has not been provided a reasonable and meaningful opportunity and time to respond and

defend himself and that the proceedings lacks jurisdiction, and or is illegal, and or is an unconstitutional proceedings deliberately and unlawfully instituted to violate Respondents civil rights under color of law and in violation of the law. With all good faith efforts and intent to prepare and appear, it is practically impossible for Respondent to determine what facts is necessary to defend and to obtain the evidence, witnesses and the record the Order directed he needed to defend his privileges and immunities under the law with such a four days to appear. Respondent now submits his Motion For Injunctive relief praying that the order be vacated.

ARGUMENTS AND BRIEF IN SUPPORT

This Court should grant the injunction in that it is prohibitive and stand to protect constitutional rights and the laws, it does not confer any rights on the Respondent other than protect those rights, privileges and immunities he is already entitled to under the Constitution and the laws of the United States.

Due Process to the Constitution and our laws should he upheld to bar such order to show cause and to appear that are arbitrary and capricious as such. The harm to Respondent is imminent if the Court goes forward with the scheduled hearing set for Friday, September 1, 2006 and he will suffer irreparable damages to his person, reputation, rights,

privileges and immunities and there are sufficient serious questions as to the merits of the order.

Imminent harm would occurred to Respondent if the Court goes forward with the scheduled hearing set for Friday, September 1, 2006 at 9.30 am, and he will suffer irreparable damages to his person, reputation, rights, privileges and immunities and there are sufficient serious question as to the merits of the order. In such circumstance the Court must exercise its equity jurisdiction to bar imminent harm and irreparable damages. **Weinberger v. Romero-Barcelo**, 456 U.S. 305 (1982); Injunctive Relief should be granted for several reasons. Any one of these reasons is ground to grant the injunction and vacate the Order.

First, the order failed to meet due process standard of specific facts for the allegations claimed;

Second, that it failed to provide proper notice with reasonable adequate and sufficient time from when the order was issued to the time Respondent was ordered to appear, thereby denying him any meaningful opportunity to response, gather his witnesses, evidence and prepare a defense. Third, The Order to show cause and to appear together with the facts and directives contained there in if enforced violates the United States Constitution in that it is directing that constitutionally protected first amendment rights for privacy, the fifth and fourteenth amendment rights to due process and equal protection of the law be suspended.

Third, the Order failed to provide legally sufficient facts and allegation to establish jurisdiction under the disciplinary role of the Court and the Rules. It cites a local rule, even its directives violated the rule it cited. It failed to provide the information necessary to comply with due process notice and material facts to establishing the Court authority and jurisdiction **(See Respondent Answers and Objection with Tonie Williams Affidavit)**.

Such general and insidious claims have been frowned upon by the Courts in that it failed the Due Process notice test. **In Re Ruffalo**, 390 U.S. 544, 550-551 (1968). Otherwise, the order to show cause and to appear and the proceeding would be nothing less than an unlawful ambush, entrapment, unconstitutional retaliation exercise under the guise of justice. This Court should not let itself be a part of such exercise. Finding any of the grounds presented herein is ground for injunction to issue. **In Re Ruffalo**, 390 U.S 544, 550-551 (1968). **Deerfield Med. Ctr v. City of Deerfield Beach**, 661 F.2d 328 (5th Cir. 1981). The Tribunal would find good cause that in this case and in this circumstance granting the Motion For Injunctive Relief is appropriate to protect Respondent from imminent harm and irreparable damages and that such relief would not disadvantage the court but would lead to a just result.

At the least in our scheme of laws, Respondent is entitled to proper due process notice an impartial and fair judicial untainted and lawfully gathered statements and allegations and the right to confront his

accusers with all these violations there is likelihood that he would win and that certainly public interest will be well served in that his clients rights would be protected as well. **Selling v. Radford**, 243 U.S. 46 (1917); In Re Oliver, 333 U.S. 257, 273 (1948); **Theard v. U.S.** 354 U.S. 278, (1957).

CONCLUSION

WHEREFORE ALL PREMISES CONSIDERED, Respondent Mike Bello, Prays that the Court grants his Motion For Injunctive Relief and vacate the Order to Show Cause and to Appear now set for September 1, 2006 at 9.30 am., and issue a permanent injunction on the Clerk of the Court not to prepare any further such order without compliance with the Constitution and the laws of the United States in the interest of justice.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE: MIKE BELLO, ESQ. ACTON
RESPONDENT **No. 4:06-MC-024-Y**

REF: **RELATED TO CASE**
No. 4:04-CV-246-Y

AFFIDAVIT OF MIKE BELLO

State of Texas

County of Tarrant

1. I Mike Bello, the Respondent party in the above named and numbered cause, I am an attorney and an adult and above the age of 21, years old and of sound mind and competent and have personal knowledge of the facts and statements made herein in this Motion For Injunctive Relief.

2. That the statements made herein are made under declaration believing same to be true and correct according to my knowledge.

3. That the Motion For Injunctive Relief with the Affidavit was filed for the Purpose of Justice and for due process and not for delay.

4. That Good Cause and justice require that the Motion For Injunctive Relief be granted.

Further Affiant Sayeth not.

/s/ Mike Bello
Affiant, Mike Bello

On this day, August 31, 2006, appearing before me is the person known to me as the affiant and swear upon his oath herein witness my hand, SWORN AND SUBSCRIBED TO, before me

/s/ Patricia Roque
Notary Public for the
State of Texas

[SEAL] Patricia Roque
My Commission Expires
March 01, 2006